



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/EV/22/3914

Re: Property at 56D Aurs Crescent, Barrhead, G78 2LX (“the Property”)

Parties:

Mr Ross McMillan, Mr Iain Borland, 18 Temple Locks Place, Glasgow, G13 1JS (“the Applicant”)

Mr Jason Convery, Miss Robyn Convery, 56D Aurs Crescent, Barrhead, G78 2LX (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Eviction Order against the Respondents. The Tribunal also superseded extract to delay the execution of the Order for a period of 8 weeks.

Introduction.

This Case Management Discussion concerned an application for an Eviction order under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 in respect to a Private Rented Tenancy. The Case Management Discussion took place by teleconference. The Tribunal explained the purpose and nature of the Case Management Discussion and parties were aware that a final decision could be made. The order of proceedings was discussed.

1. Attendance and Representation.

The Applicant was represented by Kirsty McMillan, Western Lettings, Suite 5, Platinum House, 23 Eagle Street, Glasgow, G4 9XA

The Respondents were present. They explained they were brother and sister.

2. Preliminary Matters.

The Respondents referred to a request for further time before eviction as the Respondent Miss Convery had applied to the Local Authority for housing whilst the Respondent Mr Convery explained he was arranging to move in with his partner.

There were no other preliminary issues raised.

3. Case Management Discussion.

For the Applicant

The Applicant's representative set out that the Applicant was seeking an Eviction order on the basis of Ground 1, schedule 3 of 2016 Act. The landlord intends to sell the property. The Applicant's representative said that this particular property has had issues with rent arrears since 2019. Notice to Leave had been served twice but rescinded twice. The Respondent's had received a grant to address arrears. The Applicant's representative said the Landlords mortgage on the property is increasing to over £200 from previously around £70. She said rent per calendar month is £450 per month.

The Applicant's representative said that there had been no rent in full received since 2019 and only sporadic payments. The Applicant is an investor landlord and had another property in Barrhead which was sold last year. The Applicant's representative has said the Applicant had sought to sell the property with the tenants in same but this was unsuccessful. She said the Applicant has 2 rental properties and is a mortgage advisor. She said that the rent arrears are £2164. Prior to the grant the arrears were £5,178 in March 2022. The grant brought the arrears down to £777.66.

For the Respondent

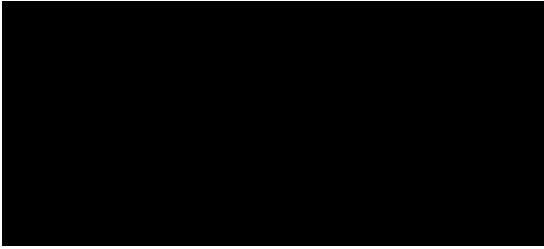
The Respondent Miss Convery said she had struggled as she had never been in a permanent job. When not in employment her universal credit could be late and a change in circumstances meant housing benefit did not always kick in. She has no illness, is 28 years of age, is single and has no children. The Respondent Mr Convery said he was paying his half of the rent and was trying to add to that for his sister but it wasn't covering the rest of what was due on the rent. He is now moving in with his partner. They both did not oppose the application but the Respondent Miss Convery sought time to find housing.

4. Reasons for Decision and Evidence relied upon

- 1. The Tribunal was satisfied that a decision could be made at the CMD and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondents did not oppose the Application and the Tribunal could determine the dispute with the information before them and the attendance of parties.**
- 2. The Applicant sought an Order for Eviction on the grounds that the landlord sought to sell the property.**
- 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties dated 30th October 2019.**
- 5. A Notice to Leave was sent to the Respondent on 3rd July 2022.**
- 6. The Tribunal was satisfied on balance that the Applicant sought to sell the property and that in terms of Schedule 3, Part 3 Ground 1 of the 2016 Act this was established. It was not opposed and the Applicant's representative gave clear and credible evidence on same.**
- 7. The Tribunal was also satisfied that in terms of Section 52 of the 2016 Act a valid Notice to Leave had been given to the Respondents by valid means and the Application had been raised after the correct notice period.**
- 8. The Tribunal noted the Local Authority had been notified.**
- 9. On the evidence available to the Tribunal the Respondents had no dependents residing with them, one had found alternative accommodation and the other was seeking local authority assistance. Neither had dependents or vulnerabilities. There were rent arrears to the amount of £2164 on the property and this was not opposed and accepted. The Applicant sought to sell the property after a substantial increase in mortgage payments. He had 2 rental properties and was a mortgage adviser. The Tribunal found an Order was reasonable in terms of the Coronavirus (Scotland) Act 2020.**
- 10. However in regards the overriding objective of the Tribunal it was considered on balance appropriate to supersede extract and delay the eviction order for a period of 8 weeks.**
- 11. Accordingly, in terms of Section 51 of the 2016 Act the Tribunal granted an Eviction order against the Respondents.**

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.



Legal Member/Chair

15th February 2023

Date